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10/058,805	01/30/2002	Hiroyuki Tomoike	Q68279	4726

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EXAMINER

NGUYEN, THANH T

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/058,805
Filing Date: January 30, 2002
Appellant(s): TOMOIKE, HIROYUKI

Artem N. Sokolov
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 5, 2008 appealing from the Office action mailed May 4, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,610,105	MARTIN, JR	08-2003
6,381,465	CHERN	04-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin, Jr et al., (hereinafter Martin) U.S. Patent No. 6,610,105 in view of Chern et al., (hereinafter Chern) U.S. Patent No. 6,381,465.

5. As to claim 1, Martin, Jr discloses the invention substantially as claimed, Martin, Jr teaches including a mobile communication system, comprising: a portable information terminal unit [see Martin Jr, mobile device 106 of fig. 1 A, and col.5, lines 26-31, (Base station control radio or telecommunication links with mobile device 106)]; mobile stations capable of participating simultaneously in communication with said portable [(see Martin Jr, Base station 102 of fig.2A, and col.5, lines 23-25, col.6, lines 40-45, (mobile device 106 is capable of communicating wirelessly with antenna 108 by airnet 102, and the airnet communicates simultaneously with a plurality of mobile devices)]. A packet mobile switching center which is adapted to communicate with said mobile stations through a radio

access network [see Martin Jr, col.5, lines 6-40](the operations and maintenance center comprises a mobile switching center performing the switching of calls between the mobile devices and other fixed or mobile network users); a packet mobile gateway switching center which is adapted to communicate with said packet mobile switching center through a mobile data network [gateway server see Martin Jr, in fig.2A as link server 114, and see col.5, lines 40-67](between landnet 100 and aimet 102 there is a server device 114 functioning as a bridge between the two networks and server 114, also referred to as a link server, proxy server, wireless data server or network gateway server); and a content server which is adapted to communicate with said packet mobile gateway switching center through the Internet [see Martin Jr, server 134, 132 communicate with link server 114 through the internet 104, and host server 128 with database 130, also see col.6, lines 52 to col.7, line 33] (database 130 can be an independent storage location or physically a part of host server). However, Martin Jr does not explicitly disclose a plurality of mobile station and portable information unit is adapted to download or upload data from or to said center it server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data.

6. In the same field of endeavor, Chem discloses (e.g., a system and method for attaching an advertisement to an SMSwireless transmission). Chem discloses a plurality of mobile station [see Chem, col.5, lines 40-58], (network 140 is typically comprised of a plurality of base station that provide replay point for communication network) and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of

pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data [see Chern, col. 13, lines 12-21] (Alternatively, the program or portion of it could be stored on server 136 and downloaded to handset 130 as needed).

7. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Chem's teachings of a system and method for attaching an advertisement to an SMS message for wireless transmission with the teachings of Martin Jr, for the purpose of updating scripts and/or prompts may be downloaded for server to handset [see Chem, col.6, lines43-45]. Thus, providing the motivation by stating that there exist a need to minimize the amount of memory required in handset, memory costs and airtime costs [see Chem col.6, lines 46-50].

8. As to claim 2, Martin, Jr discloses the invention substantially as claimed, Martin, Jr teaches including a mobile communications system comprising: a portable information terminal unit [see Martin Jr, mobile device 106 of fig. 1 A, and col.5, lines 26-31, (Base station control radio or telecommunication links with mobile device 106)]; wherein: said portable information terminal unit is adapted to communicate with a mobile stations [(see Martin Jr, Base station 102 offig.2A, and col.5, lines 23-25, col.6, lines 40-45, (mobile device 106 is capable of communicating wirelessly with antenna 108 by airnet 102, and the aimet communicates simultaneously with a plurality of mobile devices)]; mobile stations are capable of participating simultaneously in communication with a packet mobile switching center through a radio access network [see Martin Jr, col.5, lines 6- 40](the operations and maintenance center comprises a mobile switching center performing the switching of calls between the mobile devices and other fixed or

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mobile network users); said packet mobile switching center is adapted to communicate with a packet mobile gateway switching center through a mobile data network [gateway server see Martin Jr, in fig.2A as link server 114, and see col.5, lines 40-67](between landnet 100 and airnet 102 there is a server device 114 functioning as a bridge between the two networks and server 114, also referred to as a link server, proxy server, wireless data server or network gateway server), said mobile gateway switching center is adapted to communicate with a content server through the Internet [see Martin Jr, server 134, 132 communicate with link server 114 through the internet 104, and host server 128 with database 130, also see col.6, lines 52 to col.7, line 33] (database 130 can be an independent storage location or physically a part of host server).

However, Martin Jr does not explicitly disclose a plurality of mobile station and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data.

9. In the same field of endeavor, Chem discloses (e.g., a system and method for attaching an advertisement to an SMSwireless transmission). Chem discloses a plurality of mobile station [see Chem, col.5, lines 40-58, (network 140 is typically comprised of a plurality of base station that provide replay point for communication network)] and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data [see Chem, col. 13, lines 12-21, (Alternatively, the

program or portion of it could be stored on server 136 and downloaded to handset 130 as needed)).

10. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Chem's teachings of a system and method for attaching an advertisement to an SMS message for wireless transmission with the teachings of Martin Jr, for the purpose of updating scripts and/or prompts may be downloaded for server to handset [see Chem, col.6, lines43-45]. Thus, providing the motivation by stating that there exist a need to minimize the amount of memory required in handset, memory costs and airtime costs [see Chem col.6, lines 46-50].

11. As to claim 3, Martin, Jr discloses the invention substantially as claimed, Martin, Jr teaches including a mobile communications system comprising: mobile stations connect to the packet switching center, are adapted to communicate with a packet mobile switching center through a radio access network [see Martin Jr, col.5, lines 6-40](the operations and maintenance center comprises a mobile switching center performing the switching of calls between the mobile devices and other fixed or mobile network users); said packet mobile switching center is adapted to communicate with a packet mobile gateway switching center through a mobile data network[gateway server see Martin Jr, in fig.2A as link server 114, and see col.5, lines 40-67](between landnet 100 and aimet 102 there is a server device 114 functioning as a bridge between the tWO networks and server 114, also referred to as a link server, proxy server, wireless data server or network gateway server) said mobile gateway switching center is adapted to communicate with a content server through the Internet [see Martin Jr, server 134, 132 communicate with link

server 114 through the internet 104, and host server 128 with database 130, also see col.6, lines 52 to col.7, line 33] (database 130 can be an independent storage location or physically a part of host server). However, Martin Jr does not explicitly disclose a plurality of mobile station and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data.

12. In the same field of endeavor, Chern discloses (e.g., a system and method for attaching an advertisement to an SMSwireless transmission). Chern discloses a plurality of mobile station [see Chern, col.5, lines 40-58, (network 140 is typically comprised of a plurality of base station that provide replay point for communication network)] and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data [see Chern, col. 13, lines 12-21, (Alternatively, the program or portion of it could be stored on server 136 and downloaded to handset 130 as needed)].

13. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Chern's teachings of a system and method for attaching an advertisement to an SMS message for wireless transmission with the teachings of Martin Jr, for the purpose of updating scripts and/or prompts may be downloaded for server to handset [see Chern, col.6, lines43-45]. Thusl providing the motivation by stating that there exist

a need to minimize the amount of memory required in handset, memory costs and airtime costs [see Chem col.6, lines 46-50]. \

14. As to claim 4, Martin, Jr discloses the invention substantially as claimed, Martin, Jr teaches including a packet mobile switching center which is adapted to communicate with a plurality of mobile stations through a radio access network wherein; mobile stations are capable of participating simultaneously in communication with portable information unit [see Martin Jr, col.5, lines 6-40](the operations and maintenance center comprises a mobile switching center performing the switching of calls between the mobile devices and other fixed or mobile network users); said packet mobile switching center is adapted to communicate with a packet mobile gateway switching center through a mobile data network [gateway server see Martin Jr, in fig.2A as link server 114, and see col.5, lines 40-67](between landnet 100 and aimet 102 there is a server device 114 functioning as a bridge between the two networks and server 114, also referred to as a link server, proxy server, wireless data server or network gateway server), said mobile gateway switching center is adapted to communicate with a content server through the Internet [see Martin Jr, server 134, 132 communicate with link server 114 through the internet 104, and hostserver 128 with database 130, also see col.6, lines 52 to col.7, line 33] (database 130 can be an independent storage location or physically a part of host server). However, Martin Jr does not explicitly disclose a plurality of mobile station and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data.

15. In the same field of endeavor, Chem discloses (e.g., a system and method for attaching an

advertisement to an SMSwireless transmission). Chern discloses a plurality of mobile station [see Chem, col.5, lines 40-58, (network 140 is typically comprised of a plurality of base station that provide replay point for communication network)] and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data [see Chem, coi.13, lines 12-21, (Alternatively, the program or portion of it could be stored on server 136 and downloaded to handset 130 as needed)].

16. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Chern's teachings of a system and method for attaching an advertisement to an SMS message for wireless transmission with the teachings of Martin Jr, for the purpose of updating scripts and/or prompts may be downloaded for server to handset [see Chern, col.6, lines 43-45]. Thus, providing the motivation by stating that there exist a need to minimize the amount of memory required in handset, memory costs and airtime costs [see Chem col.6, lines 46-50].

17. As to claim 5, Martin, Jr discloses the invention substantially as claimed, Martin, Jr teaches including a packet mobile gateway switching center which is adapted to communicate with a packet mobile switching center is adapted to communicate with a mobile station through a radio access network; mobile stations are capable of participating simultaneously in communication with portable information unit [see Martin Jr, col.5, lines 6-40](the operations and maintenance center comprises a mobile switching center performing the switching of calls between the mobile

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devices and other fixed or mobile network users), said mobile gateway switching center is adapted to communicate with a content server through the Internet [see Martin Jr, server 134, 132 communicate with link server 114 through the internet 104, and host server 128 with database 130, also see col.6, lines 52 to col.7, line 33] (database 130 can be an independent storage location or physically a part of host server). However, Martin Jr does not explicitly disclose a plurality of mobile station and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data.

18. In the same field of endeavor, Chern discloses (e.g., a system and method for attaching an advertisement to an SMSwireless transmission). Chern discloses a plurality of mobile station [see Chern, col.5, lines 40-58, (network 140 is typically comprised of a plurality of base station that provide relay point for communication network)] and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data [see Chern, col. 13, lines 12-21, (Alternatively, the program or portion of it could be stored on server 136 and downloaded to handset 130 as needed)].

19. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Chern's teachings of a system and method for attaching an advertisement to an SMS message for wireless transmission with the teachings of

Martin Jr, for the purpose of updating scripts and/or prompts may be downloaded for server to handset [see Chern, col.6, lines43-45]. Thus, providing the motivation by stating that there exist a need to minimize the amount of memory required in handset, memory, costs and airtime costs [see Chern col.6, lines 46-50].

20. As to claim 6, Martin, Jr discloses the invention substantially as claimed, Martin, Jr teaches including a contents server which is adapted to communicate with a packet mobile gateway switching center through the Internet, wherein said packet mobile switching center is adapted to communicate with a packet mobile gateway switching center through a mobile data network [gateway server see Martin Jr, in fig.2A as link server 114, and see col.5, lines 40-67](between landnet 100 and airnet 102 there is a server device 114 functioning as a bridge between the two networks andserver 114, also referred to as a link server, proxy server, wireless data server or network gateway server), mobile stations capable of participating simultaneously in communication with said portable [(see Martin Jr, Base station 102 of fig.2A, and col.5, lines 23-25, col.6, lines 40-45, (mobile device 106 is capable of communicating wirelessly with antenna 108 by airnet 102, and the airnet communicates simultaneously with a plurality of mobile devices)]. A packet mobile switching center which is adapted to communicate with said mobile stations through a radio access network [see Martin Jr, col.5, lines 6-40](the operations and maintenance center comprises a mobile switching center performing the switching of calls between the mobile devices and other fixed or mobile network users). However, Martin Jr does not explicitly disclose a plurality of mobile station and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station

uploads or downloads only a portion of the plurality of pieces of the data.

21. In the same field of endeavor, Chern discloses (e.g., a system and method for attaching an advertisement to an SMSwireless transmission). Chern discloses a plurality of mobile station [see Chern, col.5, lines 40-58, (network 140 is typically comprised of a plurality of base station that provide replay point for communication network)] and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data [see Chern, col. 13, lines 12-21, (Alternatively, the program or portion of it could be stored on server 136 and downloaded to handset 130 as needed)].

22. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Chern's teachings of a system and method for attaching an advertisement to an SMS message for wireless transmission with the teachings of Martin Jr, for the purpose of updating scripts and/or prompts may be downloaded for server to handset [see Chern, col.6, lines 43-45]. Thus, providing the motivation by stating that there exist a need to minimize the amount of memory required in handset, memory costs and airtime costs [see Chern col.6, lines 46-50].

23. As to claim 7, Martin, Jr discloses the invention substantially as claimed, Martin, Jr teaches including a mobile communication system, comprising: a portable information terminal unit [see Martin Jr, mobile device 106 of fig. 1A, and col.5, lines 26-31, (Base station control radio or telecommunication links with mobile device 106)]; mobile

stations capable of participating simultaneously in communication with said portable [(see Martin Jr, Base station 102 of fig.2A, and col.5, lines 23-25, col.6, lines 40-45, (mobile device 106 is capable of communicating wirelessly with antenna 108 by airnet 102, and the airnet communicates simultaneously with a plurality of mobile devices)]; a packet mobile switching center which is adapted to communicate with said mobile stations through a radio access network [see Martin Jr, col.5, lines 6-40](the operations and maintenance center comprises a mobile switching center performing the switching of calls between the mobile devices and other fixed or mobile network users); a packet mobile gateway switching center which is adapted to communicate with said packet mobile switching center through a mobile data network [gateway server see Martin Jr, in fig.2A as link server 114, and see col.5, lines 40-67](between landnet 100 and airnet 102 there is a server device 114 functioning as a bridge between the two networks and server 114, also referred to as a link server, proxy server, wireless data server or network gateway server); and a content server which is adapted to communicate with said packet mobile gateway switching center through the Internet [see Martin Jr, server 134, 132 communicate with link server 114 through the internet 104, and host server 128 with database 130, also see col.6, lines 52 to col.7, line 33] (database 130 can be an independent storage location or physically a part of host server). However, Martin Jr does not explicitly disclose a plurality of mobile station and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data.

24. In the same field of endeavor, Chem discloses (e.g., a system and method for attaching an

advertisement to an SMSwireless transmission). Chem discloses a plurality of mobile station [see Chem, col.5, lines 40-58, (network 140 is typically comprised of a plurality of base station that provide replay point for communication network)] and portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data [see Chem, col. 13, lines 12-21, (Alternatively, the program or portion of it could be stored on server 136 and downloaded to handset 130 as needed)].

25. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Chern's teachings of a system and method for attaching an advertisement to an SMS message for wireless transmission with the teachings of Martin Jr, for the purpose of updating scripts and/or prompts may be downloaded for server to handset [see Chem, col.6, lines43-45]. Thus, providing the motivation by stating that there exist a need to minimize the amount of memory required in handset, memory costs and airtime costs [see Chem col.6, lines 46-50].

(10) Response to Argument

Appellant argues that Martin does not teach “a *plurality of mobile stations*”.

Examiner respectfully disagrees. Martin teaches a plurality of mobile stations as shown in col.5, lines 18-25, and col.6, lines 40-44 (*the airnet 102 communicates simultaneously with a plurality of mobile device 106 such as devices 106.1, 106.2106n*).

Appellant argues that Martin and Chern do not teach “*portable information terminal unit adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into plurality of pieces and each of the plurality of mobile stations upload or downloads only a portion of the plurality of pieces of data*”.

Examiner respectfully disagrees. Chern teaches portable information unit is adapted to download or upload data from or to said content server through the plurality of mobile stations, wherein the data is divided into a plurality of pieces and each of the plurality of mobile station uploads or downloads only a portion of the plurality of pieces of the data as shown in col. 13, lines 12-21 (*Alternatively, the program or portion of it could be stored on server 136 and downloaded to handset 130 as needed*).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/T. N./

Thanh Tammy Nguyen

Primary Examiner, Art Unit 2144

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2144

Conferees:

/William C. Vaughn, Jr./

Art Unit: 2100

Supervisory Patent Examiner, Art Unit 2144

/John Follansbee/

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